

(1) This description must not contain features which unduly restrict competition, unless the features are necessary to:

- (i) Test or demonstrate a specific thing;
- (ii) Provide for necessary interchangeability of parts and equipment; or
- (iii) Promote innovative technologies.

(2) The recipient must avoid the use of detailed product specifications if at all possible.

(d) *Public notice.* When soliciting bids or proposals, the recipient must allow sufficient time (generally 30 calendar days) between public notice of the proposed project and the deadline for receipt of bids or proposals. The recipient must publish the public notice in professional journals, newspapers, or publications of general circulation over a reasonable area.

(e) *Prequalified lists.* Recipients may use prequalified lists of persons, firms, or products to acquire goods and services. The list must be current and include enough qualified sources to ensure maximum open and free competition. Recipients must not preclude potential bidders from qualifying during the solicitation period.

§ 35.6560 Master list of debarred, suspended, and voluntarily excluded persons.

While evaluating bids or proposals, the recipient must consult the most current “List of Parties Excluded from Federal Procurement or Non-procurement Programs” to ensure that the firms submitting proposals are not prohibited from participation in assistance programs. The recipient must comply with the requirements regarding subawards to debarred and suspended parties described in 40 CFR 31.35.

§ 35.6565 Procurement methods.

The recipient must comply with the requirements for payment to consultants described in 40 CFR 31.36(j). In addition, the recipient must comply with the following requirements:

(a) *Small purchase procedures.* Small purchase procedures are those relatively simple and informal procure-

ment methods for securing services, supplies, or other property that do not cost more than \$25,000 in the aggregate. If small purchase procurements are used, the recipient must obtain and document price or rate quotations from an adequate number of qualified sources.

(b) *Sealed bids (formal advertising).* (For a remedial action award contract, except for Architectural/Engineering services and post-removal site control, the recipient must obtain the award official’s approval to use a procurement method other than the sealed bid method.) Bids are publicly solicited and a fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

(1) In order for the recipient to use the sealed bid method, the following conditions must be met:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a fixed-price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If the recipient uses the sealed bid method, the recipient must comply with the following requirements:

(i) Publicly advertise the invitation for bids and solicit bids from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(ii) The invitation for bids, which must include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) Publicly open all bids at the time and place prescribed in the invitation for bids;

(iv) Award the fixed-price contract in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, the recipient shall consider factors such as discounts, transportation cost, and life cycle